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September 5, 2000

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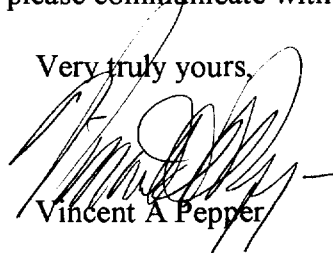
Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Amendment of Section 73.622(b)
Table of Allotments
Digital Television Broadcast Stations
Lexington, Kentucky
MM Docket No.: 00-118; RM-9757

Dear Ms. Salas:

Transmitted herewith on behalf of WKYT Licensee Corp., pursuant to the above-referenced Notice of Proposed Rule Making, are an original and four (4) copies of its Reply Comments in support of the substitution of DTV Channel 13 for the assigned DTV Channel 59 for WKYT-DT Lexington, Kentucky. Should any further information be desired in connection with this matter, please communicate with this office.

Very truly yours,



Vincent A Pepper

Enclosures

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List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
SEP 5 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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Amendment of Section 73.622(b)
Table of Allotments
Digital Television Broadcast Stations
(Lexington, Kentucky)

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MM Docket No. 00-118
RM-9757

To: Chief, Video Services Division

REPLY COMMENTS

WKYT Licensee Corp., the licensee of WKYT-TV, NTSC Channel 27, Lexington, Kentucky, by its attorneys hereby submits its Reply Comments in support of the substitution of DTV Channel 13 (core spectrum digital allotment) for the assigned DTV Channel 59 (non-core digital allotment) for WKYT-DT. In support thereof, the following is respectfully submitted.

1. In addition to the Comments filed in the instant proceeding by the proponent, WKYT Licensee Corp., Comments were filed by Gateway Communications, Inc., the licensee of station WOWK-TV, NTSC Channel 13, Huntington, West Virginia and by ACME Communications, Inc. and ACME Television Licenses of Kentucky, L.L.C.

2. The Comments filed by Gateway Communications, Inc. do not and cannot oppose the requested Channel 13 digital allocation for WKYT. Instead, for no clear reason, Gateway requests the Commission defer action on the digital request of WKYT

or limit the power to 1 kW. Attached hereto and incorporated herewith in an engineering statement prepared by Cavell Mertz & Davis, Inc. stating clearly that:

- a. the proposed substitution of DTV Channel 13 for DTV Channel 59 complies in every respect with the Commission's rules;
- b. the proposed allocation of DTV Channel 13 to Lexington has absolutely no impact upon WOWK-TV, Huntington, West Virginia;
- c. the proposed digital allocation would have no impact upon WOWK-TV even were it sometime in the future to elect to change its digital allocation to Channel 13; and
- d. there is no reason to reduce the power below the proposed 5 kW. Service to the maximum number of households serves the public interest.

3. The Commission is rightfully concerned about the delays in conversion to digital operations. WKYT Licensee Corp. is prepared to proceed to construct and operate WKYT-DT on Channel 13 within the time requirements of the Commission. The present digital allocation of WKYT Channel 59 is a non-core digital allotment and were WKYT-DT to commence operation on Channel 59 it would be required to change its digital allocation to a core frequency at the conclusion of the digital transition period. That is a totally unnecessary expense to impose upon WKYT.

4. Furthermore, as reflected in the supporting Comments of ACME, the change in the digital allocation for WKYT from 59 to 13 permits the advent of a new television station in Lexington, Kentucky operating NTSC on Channel 59. As reflected in the ACME Comments, there is a settlement proceeding on file with the Commission

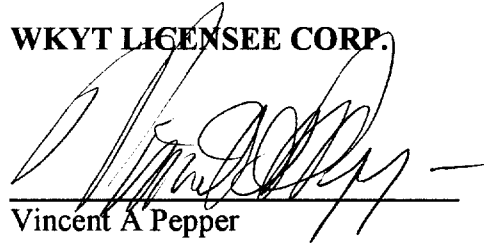
proposing such operation. Thus, the substitution of Channel 13 not only allows WKYT to avoid having to change digital operations but permits the advent of a new WB affiliated local television station for Lexington.

WHEREFORE, the premises considered it is respectfully requested that the Commission substitute core spectrum digital DTV Channel 13 for non-core DTV Channel 59 at Lexington, Kentucky allocated for WKYT-TV, as proposed in the instant proceeding.

Respectfully submitted,

WKYT LICENSEE CORP.

By:



Vincent A Pepper
Its Attorney

Pepper & Corazzini, L.L.C.
1776 K Street, NW, Suite 200
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September 5, 2000

ENGINEERING STATEMENT

prepared for

WKYT Licensee Corp.

WKYT-DT Lexington, Kentucky

MM Docket 00-118

This engineering statement has been prepared on behalf of *WKYT Licensee Corp.* (“WLC”), in support of *Reply Comments* in a Notice of Proposed Rulemaking, Mass Media Docket 00-118.¹ The subject docket proposes to change the paired digital television (DTV) assignment for WKYT-TV (NTSC Channel 27, Lexington, KY) from DTV Channel 59 to DTV Channel 13, as requested by WLC.

In its comments filed in Docket 00-118, *Gateway Communications Inc.* (“Gateway”), licensee of WOWK-TV (NTSC Channel 13, Huntington, WV) requests that action on Docket 00-118 be deferred until the Commission resolves the issue regarding post-transition DTV channel selection in MM Docket 00-39.² *Gateway* suggests that DTV operation by WKYT on Channel 13 would potentially impact post-transition facilities. Specifically, *Gateway’s* concern is implied to be the impact to WOWK-DT post transition, when it is anticipated that WOWK-DT would operate on Channel 13. As discussed below, however, such concern is unwarranted and should not be a factor in the outcome of Docket 00-118.

Further, *Gateway* suggests that the effective radiated power (ERP) for the WKYT-DT proposed replacement Channel 13 allotment be limited to less than 1 kW. However, a restriction in ERP to less than 1 kW is contrary to the Commission’s DTV allotment process, as described below.

Discussion

In the engineering statement supporting *Petition for Rulemaking* (which initiated Docket 00-118), compliance with the Commission’s *de minimis* (2% / 10%) interference limits to all other stations is demonstrated. New interference to the NTSC WOWK-TV resulting from the proposed

¹See *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Lexington, Kentucky)*, MM Docket No. 00-118, RM 9757, released June 29, 2000.

²See *Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, MM Docket 00-39, Released March 8, 2000.

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WKYT-DT Channel 13 facility (198.8 km distant) was stated as 0.1 percent; total interference would rise to 4.6 percent. *Gateway's* comments did not dispute or object to that finding. The Commission's analysis of the proposal also found the proposal to comply with its evaluation criteria regarding changes in initial DTV allotments. Inasmuch as these analysis assumed a 5 kW DTV operation for WKYT-DT, restriction of WKYT-DT's ERP on Channel 13 to less than 1 kW is not necessary to insure compliance with the interference limits.

Post Transition WOWK

WOWK-TV was assigned DTV Channel 54 as a "paired" allotment to its NTSC Channel 13 facility. Following the transition to DTV, WOWK-DT is likely to utilize its present NTSC Channel 13 for DTV transmissions. In its comments, *Gateway* does not provide any data that supports its concern or would show the impact on its prospective DTV Channel 13 facility resulting from the proposed WKYT-DT Channel 13 operation.

Such an analysis is presented in the instant statement. Detailed interference studies were conducted in accordance with the terrain dependent Longley-Rice point-to-point propagation model, per the Commission's Office of Engineering and Technology Bulletin number 69, *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, July 2, 1997 ("OET-69").

WOWK-DT Replication Facility - Interference from WKYT-DT

For replication of its existing NTSC service area, a DTV ERP of approximately 6 kW is required for WOWK-DT on Channel 13 (using the Commission's procedure in developing the DTV Table of Allotments, assuming the "reference" site and antenna height for WOWK). For a 6 kW "replication" facility for WOWK-DT on Channel 13, an OET-69 study showed that only 671 persons would be subject to interference from the proposed WKYT-DT Channel 13 facility, or 0.07 percent of the "baseline" (FCC Appendix B) service population for WOWK.

If "masking" of interference from other stations is considered, the additional interference from WKYT-DT would only affect 329 persons (0.03 percent), and the net service population would be 975,750 considering losses due to terrain and interference. With a service population of 975,750

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on DTV Channel 13, WOWK-DT would exceed the existing WOWK-TV NTSC (FCC Appendix B) service population of 948,000, and more than 100 percent replication is achieved. Thus, the proposed WKYT-DT operation on Channel 13 would have negligible impact on a replication facility for WOWK-DT on Channel 13, and easily meets the Commission's *de minimis* interference limits.

WOWK-DT Maximized Facility - Interference from WKYT-DT

WOWK-DT may desire to "maximize" a DTV Channel 13 facility in excess of the 6 kW required for replication. The maximum DTV ERP on Channel 13 for WOWK's 387 meter antenna height above average terrain is 13.5 kW, per §73.622(f)(7)(ii).

In the case of a 13.5 kW WOWK-DT Channel 13 facility, the interference attributable to the proposed WKYT-DT facility is 1435 persons (0.15%). Considering interference "masking" by other stations, the additional interference from WKYT-DT would only affect 293 persons (0.03 percent), and the net WOWK-DT service population would be 1,046,768. This service population for WOWK-DT exceeds the existing WOWK-TV NTSC service population of 948,000, and more than 100 percent replication is achieved. Thus, the proposed WKYT-DT operation on Channel 13 is well within the Commission's *de minimis* interference limits with respect to a maximized facility for WOWK-DT on Channel 13.

Ability of WOWK-DT to Maximize - Interference to WKYT-DT

An additional analysis was performed regarding the impact WKYT-DT Channel 13 may have on the ability of WOWK-DT to maximize its DTV facility on Channel 13. Should WKYT-DT be authorized on Channel 13, later maximization of WOWK-DT on Channel 13 may have to consider the WKYT-DT facility. Assuming a "maximized" ERP of 13.5 kW for WOWK-DT, the interference study showed that interference to the proposed WKYT-DT facility *would decrease* by 1073 persons (0.16 %) from that which would be experienced from the licensed WOWK-TV NTSC Channel 13 facility. Thus, WOWK-DT would not be impeded from maximizing its DTV Channel 13 facility by the proposed WKYT-DT facility.

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Restriction of ERP

In its comments, Gateway requests that the ERP for the proposed WKYT-DT be limited to less than 1 kW. However, such a limitation would result in an ERP below the minimum value set by the Commission for DTV allotments. Specifically, in the Commission's *Sixth Report and Order*,³ a minimum ERP of 3.2 kW was established for upper VHF channels (Channels 7 - 13). Minimum ERP levels were established to "ensure that stations have a sufficient service area to compete effectively in the provision of DTV services and is consistent with the maximization concept supported by the industry." (para 30) Thus, limitation of the WKYT-DT ERP to less than 1 kW does not comport with the Commission's stated goals and policy.

Summary

The WKYT-DT proposal complies with the Commission's 2% / 10% *de minimis* interference limits with respect to existing stations. Interference from the proposed WKYT-DT to a post-transition operation of WOWK-DT on Channel 13 would also not exceed *de minimis* limits, either at "replication" or "maximized" ERP levels for WOWK-DT. The ability of WOWK-DT to maximize a post-transition Channel 13 facility would not be impeded by the presence of the proposed WKYT-DT.

Limitation of the WKYT-DT ERP to less than 1 kW would be contrary to the Commission's stated goals and policy. Such a limitation is not necessary, as the proposed 5 kW WKYT-DT facility meets all *de minimis* requirements with respect to existing stations and post-transition WOWK-DT Channel 13 as described above.

Certification

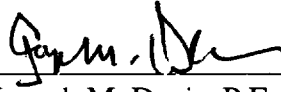
Under the penalty of perjury, the undersigned hereby certifies that the foregoing statement was prepared by him or under his direction, and that it is true and correct to the best of his knowledge and belief. Mr. Davis is a principal in the firm of *Cavell, Mertz & Davis, Inc.*, is a Registered Professional Engineer in Virginia, holds a Bachelor of Science degree from Old

³See *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, FCC 97-115, MM Docket 87-268, released April 21, 1997.

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Dominion University in Electrical Engineering Technology, and has submitted numerous engineering exhibits to various local governmental authorities and the Federal Communications Commission. His qualifications are a matter of record with that entity.



Joseph M. Davis, P.E.

August 31, 2000

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CERTIFICATE OF SERVICE

I, Lisa A. Skoritoski, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 5th day of September, 2000, copies of the foregoing Reply Comments were mailed, postage prepaid, to the following:

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Lisa A. Skoritoski